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**MEMORANDUM****ORIGINAL**

2008 OCT 14 A 9:30

Arizona Corporation Commission

TO: Docket Control

FROM: Ernest G. Johnson  
Director  
Utilities DivisionAZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED

DATE: October 14, 2008

RE: STAFF REPORT FOR IN THE MATTER OF MIDVALE TELEPHONE  
EXCHANGE, INC.'S APPLICATION FOR AN AMENDMENT TO ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NO.  
T-02532A-07-0586)

Attached is the Staff Report for Midvale Telephone Exchange, Inc.'s Application to amend its Certificate of Convenience and Necessity ("CC&N").

In its discussion, Staff considers Midvale's Application in two parts; i.e. an Eastern Extension Area and a Western Extension Area. In general the Eastern Extension Area can be described as being to the east of Qwest's Chino Valley Exchange and to the north and east of Qwest's Prescott Exchange. The Western Extension Area is located to the west of Qwest's Chino Valley Exchange and the northwest of Qwest's Prescott Exchange. The entirety of the requested Extension Area is currently unserved territory.

Staff recommends that the request of Midvale to extend its CC&N to include the Eastern Extension Area be approved. Staff recommends that the request of Midvale to extend its CC&N to include the Western Extension Area be approved. Staff recommends that the Commission authorize Midvale to utilize its Millsite Exchange rates, charges, and other terms and conditions in both the Eastern and Western Extension Areas.

Staff further recommends that the Commission find that approval of the Application to amend Midvale's CC&N is in the public interest. Staff further recommends that:

1. The Company be required to update its service area maps on file with the Commission within sixty (60) days of a Decision granting the Application.
2. The Company be authorized to apply its currently authorized tariffed rates and charges for the Millsite Exchange to the unserved area to be added through the instant Application.
3. Midvale be required to file in this docket, within 6 months of the Decision, an estimated schedule of when homeowners within each subdivision may expect availability of service from the Company.

4. Midvale be required to file in the docket, as each is obtained, certification of all state highway, county or other permits that may be required for it to provide service within the Extension Area.

EGJ:RLB:tdp

Originator: Richard Boyles



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Docket No. T-02532A-07-0586

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**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**MIDVALE TELEPHONE EXCHANGE, INC.  
DOCKET NO. T-02532A-07-0586**

**IN THE MATTER OF MIDVALE TELEPHONE EXCHANGE, INC'S.  
APPLICATION FOR AN AMENDMENT TO ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY**

**OCTOBER 14, 2008**

## STAFF ACKNOWLEDGMENT

The Staff Report for the Application of Midvale Telephone Exchange, Inc. (Docket No. T-02532A-07-0586) was the responsibility of the Staff members listed below.

A handwritten signature in black ink, appearing to read "Richard Boyles", written over a horizontal line.

Richard Boyles  
Utilities Engineer—Telecommunications

A handwritten signature in black ink, appearing to read "Candrea Allen", written over a horizontal line.

Candrea Allen  
Public Utilities Analyst II

**EXECUTIVE SUMMARY**  
**MIDVALE TELEPHONE EXCHANGE, INC.**  
**DOCKET NO. T-02532A-07-0586**

On October 9, 2007, Midvale Telephone Exchange, Inc. ("Midvale") filed an Application ("Application") that, in general, requested approval for an extension to its Certificate of Convenience and Necessity ("CC&N") that would result in the expansion its Millsite Exchange to various areas of unserved territories contiguous to, or near, the current Millsite Exchange boundaries.

In its discussion, Staff considers Midvale's Application in two parts; i.e. an Eastern Extension Area and a Western Extension Area. In general the Eastern Extension Area can be described as being to the east of Qwest's Chino Valley Exchange and to the north and east of Qwest's Prescott Exchange. The Western Extension Area is located to the west of Qwest's Chino Valley Exchange and the northwest of Qwest's Prescott Exchange. The entirety of the requested Extension Area is currently unserved territory.

In its April 28, 2008, Motion to Intervene, Table Top Telephone Company, Inc. ("Table Top") stated an interest in the Western Extension Area and indicated that it intended to submit its own competing CC&N extension application for the area. In Table Top's Motion to Intervene, Table Top stated it "does not object to Midvale's request" concerning the area Staff identifies as the Eastern Extension Area. As of October 1, 2008, Table Top has not filed a competing CC&N extension application.

Staff recommends that the request of Midvale to extend its CC&N to include the Western Extension Area be approved. Staff recommends that the request of Midvale to extend its CC&N to include the Eastern Extension Area be approved. Staff recommends that the Commission authorize Midvale to utilize its Millsite Exchange rates, charges, and other terms and conditions in both the Eastern and Western Extension Areas.

Staff further recommends that the Commission find that approval of the Application to amend Midvale's CC&N is in the public interest. Staff further recommends that:

1. The Company be required to update its service area maps on file with the Commission within sixty (60) days of a Decision granting the Application.
2. The Company be authorized to apply its currently authorized tariffed rates and charges for the Millsite Exchange to the unserved area to be added through the instant Application.
3. Midvale be required to file in this docket, within 6 months of the Decision, an estimated schedule of when homeowners within each subdivision may expect availability of service from the Company.
4. Midvale be required to file in the docket, as each is obtained, certification of all state highway, county or other permits that may be required for it to provide service within the Extension Area.

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## **I. Procedural History**

On October 9, 2007, Midvale Telephone Exchange, Inc., ("Midvale") filed an Application ("Application") that, in general, requested approval for an extension of its Certificate of Convenience and Necessity ("CC&N") that would result in the expansion of its Millsite Exchange to various areas of unserved territories contiguous to, or near, the current Millsite Exchange boundaries.

On October 29, 2007, Staff issued a Letter of Insufficiency with a First Set of Data Requests to Midvale.

On November 17, 2007, Midvale filed an Amendment to its Application which deleted three sections which had been found to be in the service area of another local exchange carrier.

On December 21, 2007, Midvale filed its response to the First Set of Data Requests.

On January 15, 2008, Staff issued a Second Letter of Insufficiency with a Second Set of Data Requests to Midvale.

On March 17, 2008, Midvale filed its response to the Second Set of Data Requests.

On April 10, 2008, Staff issued a Third Letter of Insufficiency with a Third Set of Data Requests to Midvale.

On April 28, 2008, Table Top Telephone Company, Inc. ("Table Top") filed a Motion to Intervene. Table Top's Motion to Intervene was granted by Procedural Order on May 12, 2008.

On May 21, 2008, Midvale filed its response to the Third Set of Data Requests.

On June 19, 2008, Staff issued a Fourth Letter of Insufficiency with a Fourth Set of Data Requests to Midvale.

On August 25, 2008, Midvale filed its response to the Fourth Set of Data Requests.

On September 12, 2008, Staff issued a Letter of Sufficiency on Midvale's Application.

On September 16, 2008, a Procedural Order was issued scheduling a hearing on the Application and establishing other deadlines.

## **II. Background**

Midvale was granted a CC&N by the Commission in Decision No. 58048, dated October 29, 1992, to provide local exchange carrier services for its Cascabel Exchange. In Decision No.

58764, dated September 1, 1994, the Commission approved the sale and transfer of Qwest's Young Exchange from Qwest to Midvale. Subsequent Decisions have further extended Midvale's CC&N service area to its current five exchanges; Cascabel, Young, Silver Bell, Granite Mountain and Millsite. In its Application, Midvale stated it was providing services to approximately 1328 rural residential customers and 124 rural business customers.<sup>1</sup>

Midvale's Application seeks to further expand its Millsite Exchange. The Millsite Exchange consists of four non-contiguous service areas around Qwest's Prescott exchange. The largest of the service areas is located to the northwest of Qwest's Prescott Exchange and west of Qwest's Chino Valley Exchange. The three smaller service areas are located 1) adjacent to the northeast corner of Qwest's Prescott Exchange, 2) to the south of and adjacent to Qwest's Prescott Exchange, and 3) to the east of the Prescott Exchange and adjacent to Qwest's Humboldt Exchange.

The Corporations Division reported on September 9, 2008, that Midvale is in good standing. According to the Utilities Division Consumer Services Section, as of September 26, 2008, one opinion was filed in favor of Midvale's Application. Consumer Services further states that all complaints regarding Midvale have been resolved and closed<sup>2</sup>. The Utilities Division Compliance Section stated that there was one delinquent compliance item for Midvale relating to certification of receipt of rights-of-way permits<sup>3</sup>. The Company has stated that the delay is due to the time it has taken to obtain certain State permits when the facility design to extend service to Poquito Valley was changed from microwave to fiber to accommodate the desires of residents within Poquito Valley.

### **III. Staff Analysis of the Requested Expansion Areas**

#### **A. General Description of the Unserved Area Requested to be added to Midvale's Millsite Exchange ("Extension Area")**

The Amended Application<sup>4</sup> identifies the areas requested to be added to Midvale's Millsite exchange and are identified as:

- a) T-18-N, R-3-W, Sections 4-7, 9-10, 15-22 and 27-34
- b) T-18-N, R-4-W, Sections 1-4 and 8-36
- c) T-18-N, R-5-W, Sections 13-15, 19, 21-22, 24-25, 29-31, 33 and 36
- d) T-18-N, R-6-W, Sections 24-25
- e) T-17-N, R-3-W, Sections 3-10 and 15-18
- f) T-17-N, R-4-W, Sections 1-17, 20-21, 28-30 and 32-33
- g) T-17-N, R-5-W, Sections 1, 25-26 and 35-36

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<sup>1</sup> See Application at page 2.

<sup>2</sup> 2005 – 5 complaints; 2006 – 1 complaint; 2007 – 3 complaints; and 2008 – 1 complaint.

<sup>3</sup> For Docket No. T-02532A-03-0017.

<sup>4</sup> Amended Application, Section V.

- h) T-16-N, R-1-E, Section 31
- i) T-16-N, R-1-W, Sections 1-17, 19-34 and 36
- j) T-16-N, R-4-W, Sections 3-5 and 8-10
- k) T-15-N, R-2-E, Sections 17,20,29, 32, E ½ of 18, E ½ of 19, E ½ 30 and E ½ of 31
- l) T-15-N, R-1-E, Sections 1 and 5
- m) T-15-N, R-1-W Sections 3-10.

In its discussion, Staff will refer to items h, i, k, l, and m as the Eastern Extension Area and the remaining items as the Western Extension Area. Attachment 1 is a map depicting the location of the requested Extension Area and its relationship to the service areas of other incumbent local exchange carriers ("ILECs") in the immediate area<sup>5</sup>. In general the Eastern Extension Area can be described as being to the east of Qwest's Chino Valley Exchange and to the north and east of Qwest's Prescott Exchange. The Western Extension Area is located to the west of Qwest's Chino Valley Exchange and the northwest of Qwest's Prescott Exchange. The entirety of the requested Extension Area is currently unserved territory.

## **B. Discussion of the Eastern Extension Area**

The Eastern Extension Area is a mixture of currently undeveloped land, scattered subdivisions, and clusters of individual properties. Attachments 2 through 5 are illustrative pictures of locations within the Eastern Extension Area. Attachment 2 is a view for the Mingus Mountain Girls School. Attachment 3 is a view of a cluster of homes located further up the forest service road and to the north of the school and Attachment 4 and 5 show homes within a development to the east of Midvale's Poquito Valley service area.

Midvale is constructing a fiber route to connect its switch located in its Henderson Valley service area<sup>6</sup> to facilities to be constructed to provide service within the Poquito Valley area. This fiber route is being constructed because property owners within the Poquito Valley area would not support construction of the microwave tower that was originally planned to provide the interconnection. The fiber route will generally go north from Henderson Valley along Forest service roads 643 and 151, west along highway 89A, north on Coyote Springs Road, and then to the west along Dog Ranch Road before terminating in Poquito Valley<sup>7</sup>. A future extension will go to the north and west to reach the Company's Cross Roads Ranch service area. A portion of this extension would also provide Midvale the ability to provide service to the majority of the sections contained within the Eastern Extension Area (located to the north and west of Poquito Valley).

Midvale states that it will serve properties within the Eastern Extension Area with Fiber-to-the-Home ("FTTH") technology<sup>8</sup>. This is consistent with how the Company is providing

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<sup>5</sup> Also see Exhibit B of the Amended Application.

<sup>6</sup> Midvale's Millsite Exchange is comprised of four non-contiguous service areas.

<sup>7</sup> See Attachment A to STF 3.1.

<sup>8</sup> See Amended Application, Section VI.



service within its Cross Roads Ranch service area. It provides the Company with the ability to provide a full range of telecommunications and broadband Internet services to its customers. FTTH also would allow future deployment of IP<sup>9</sup> based video services, should the Company decide to offer them at some point in the future.

Midvale views the incremental construction required to provision service to the Extension Areas as comparatively minor. The Company also anticipates that no new long-term financing will be required<sup>10</sup>. The Company characterizes the network augmentation needed to provide service to customers in the Extension Area as the placement of Nodes or Remotes off of its backbone fiber in strategic locations. These nodes would serve Passive Optical Network ("PON") cabinets which would provide the cross-connect to fibers that would be extended to individual properties for the provision of service<sup>11</sup>.

There are a considerable number of homes within the Eastern Extension Area without an ILEC for the provision of telecommunications services. For example, Midvale estimates the number of existing homes within the Prescott Prairie and Mingus Meadows subdivisions at approximately 100<sup>12</sup>. A letter filed on September 11, 2008, in support of Midvale's Application, identifies another 35 homes in the Haystack Ranches subdivision.

Staff recognizes that the Eastern Extension Area includes sections that are not experiencing active development. However, Staff believes this is mitigated by several factors. First, there has been a history of growth occurring in the Prescott area and residents not being able to obtain telephone service because they have been outside the service area boundary of an ILEC. Second, Staff believes designating this currently unserved area as part of an ILEC rate center may promote competition because it will allow Competitive Local Exchange Carriers ("CLECs") to obtain numbering resources and provide service within the area should they so desire. Third, Staff believes the Eastern Extension Area boundaries proposed by the Company are reasonable given where the Midvale proposes to build its fiber backbone and the manner in which it plans to deploy FTTH technology to customers requesting service. Fourth, enlargement of Midvale's Millsite rate center may lead to more efficient use of numbering resources should other carriers establish a presence in the rate center. Finally, no party or property owner has objected to Midvale being designated as the service provider for the area. In Table Top's Motion to Intervene, Table Top stated it "does not object to Midvale's request concerning the land not identified in Exhibit A." Table Top's Exhibit A does not include the Eastern Extension Area.

For the above-stated reasons, Staff recommends that the request of Midvale to extend its CC&N to include the Eastern Extension Area be approved. Staff also recommends that a Decision approving the extension also require Midvale to file in this docket, within 6 months of the Decision, an estimated schedule of when homeowners within each subdivision may expect availability of service from the Company.

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<sup>9</sup> Internet Protocol.

<sup>10</sup> See Amended Application, Section VII.

<sup>11</sup> See response to STF 1.9.

<sup>12</sup> See response to STF 1.2.

**C. Discussion of the Western Extension Area**

The Western Extension Area consists primarily of currently-undeveloped land, with the exception of the Las Vegas Ranch Estates ("Las Vegas Ranch") development. The sections within the Western Extension Area that contain the development are contiguous to, and to the west of Midvale's Crossroads Roads Ranch service area. Las Vegas Ranch is a gated community that is being developed in three phases. Upon build out, Las Vegas Ranch will consist of 120 ranch estates on 4,900 acres<sup>13</sup>. Properties are being sold in both Phase 1 and Phase 2 of the development<sup>14</sup>. Phase 3 has not yet begun to be developed. Construction has started on at least one residence in Phase 1. Attachments 6 and 7 show the south entrances to Phases 1 and 2 respectively. Midvale states that it has been asked by the developer of Las Vegas Ranch to provide service to the area<sup>15</sup>.

It is Staff's understanding that Midvale currently has facilities available in close proximity to the south entrance to Phase 1 of Las Vegas Ranch<sup>16</sup>. Midvale has also stated that it could provide service to any requesting customer within Phase 1 within two months of a Commission Decision approving its application<sup>17</sup>. Accordingly Staff believes Midvale is ready, willing, and able to provide service to Las Vegas Ranch.

As is the case in the Eastern Extension Area, Midvale will serve properties within the Western Extension Area with FTTH technology. As previously stated, this is consistent with how the Company is providing service within its Cross Roads Ranch service area. It provides the Company with the ability to provide a full range of telecommunications and broadband Internet services to its customers. FTTH also would allow future deployment of IP-based video services, should the Company decide to offer them at some point in the future. With respect to broadband Internet service, Midvale currently provides 1 megabit of bandwidth, both upstream and downstream. The Company is working with Qwest to upgrade its interconnecting facilities in early 2009. Upon completion of this upgrade, Midvale will be able to increase its download speed for customers who subscribe to the service<sup>18</sup>.

With respect to those portions of the Western Extension area that are not currently undergoing active development, Staff would apply the same reasoning as was stated in its discussion of the Eastern Extension Area as to why inclusion of these areas in an extension of Midvale's Millsite Exchange would be reasonable and in the public interest. Further, Midvale

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<sup>13</sup> See response to STF 2.9.

<sup>14</sup> See response to STF 3.8.

<sup>15</sup> See responses to STF 1.2 and STF 1.7.

<sup>16</sup> See response to STF 4.4.

<sup>17</sup> See response to STF 4.3.

<sup>18</sup> See response to STF 4.5.

has stated that an unserved portion of the Kieckhefer Ranch is contiguous to, and to the north of, its Crossroads Ranch service area, and that it requests the ability to serve the entire ranch<sup>19</sup>.

In its April 28, 2008 Motion to Intervene, Table Top stated an interest in the Western Extension Area and indicated that it intended to submit its own CC&N extension application for the area. As of October 1, 2008, Table Top has not done so, and for reasons more fully stated below, Staff gives significant weight in its analysis to Midvale's much earlier Application.

For the above stated-reasons, Staff recommends that the request of Midvale to extend its CC&N to include the Western Extension Area be approved. Staff also recommends that a Decision approving the extension also require Midvale to file in this docket, within 6 months of the Decision, an estimated schedule of when homeowners within each phase of Las Vegas Ranch Estates may expect availability of service from the Company.

#### **D. Rates and Charges**

In Section IV of the Amended Application, Midvale identifies its tariffed rate for residential basic local exchange service in the Millsite exchange as \$24.00 and its rate for basic business local exchange service as \$30.00. Midvale also offers a variety of vertical services such as caller identification, call forwarding, call waiting, 3-way calling, etc. The Company's tariff provides for discounts of 15 to 25 percent for packages of these features.

Midvale also makes use of United States Department of Agriculture Rural Development financing<sup>20</sup>. To the extent such funds are used are used for the construction of new facilities to extend service to customers, Midvale is precluded from charging construction or line extension charges.

Midvale customers within its Millsite Exchange also have the advantage of extended area service ("EAS") calling for the entirety of the Prescott local calling area. The Prescott local calling area is inclusive of Qwest's Chino Valley, Prescott, and Humboldt exchanges.

Staff recommends that the Commission authorize Midvale to utilize its Millsite Exchange rates, charges, and other terms and conditions in both the Eastern and Western Extension Areas.

#### **E. Table Top Intervention**

In its April 28, 2008 Motion to Intervene, Table Top stated an interest in the Western Extension Area and indicated that it intended to submit its own competing CC&N extension application for the area<sup>21</sup>. As of October 1, 2008, Table Top has not done so. Midvale filed its

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<sup>19</sup> See response to STF 3.7.

<sup>20</sup> Also known as Rural Utilities Service ("RUS").

<sup>21</sup> Table Top Motion at para. 13.

initial Application on October 9, 2007, and its Amended Application on November 19, 2007. There has been a time interval of approximately five months between the filing of Midvale's Amended Application and Table Top's Motion to Intervene. Approximately another five months have transpired since the Motion to Intervene, and Table Top has yet to file the competing CC&N application it contemplated.

It is Staff's position that, regardless of statements Table Top may have asserted in its Motion to Intervene, there is only one applicant before the Commission for the extension areas Midvale is requesting as evidenced by Midvale's Application. Further, in a case such as this, Staff gives considerable weight to which company filed first; especially when there is a significant difference in time and where the potentially-competing applicants may have relatively similar technical capabilities.

Accordingly, Staff does not address the assertions in Table Top's Motion to Intervene because it has not timely filed a CC&N Extension Application. Further, Staff believes that as a matter of policy, Staff should address Midvale's Amended Application on its merits and in a manner consistent with the Commission's rules.

#### **IV. Recommendations and Conclusion**

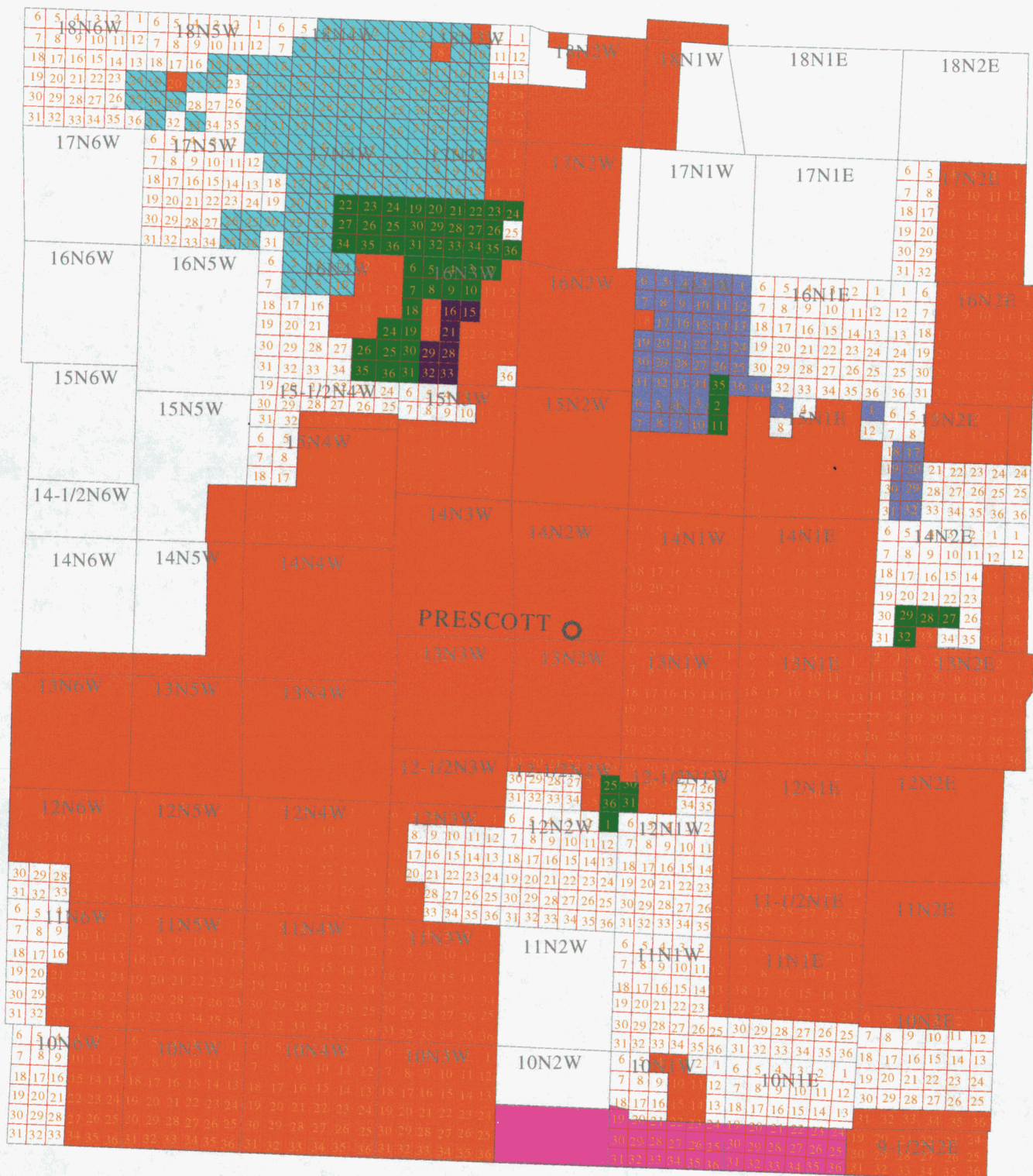
Staff recommends that the Commission find that approval of the Application to amend Midvale's CC&N is in the public interest. Staff further recommends that:

1. The Company be required to update its service area maps on file with the Commission within sixty (60) days of a Decision granting the Application.
2. The Company be authorized to apply its currently authorized tariffed rates and charges for the Millsite Exchange to the unserved area to be added through the instant Application.
3. Midvale be required to file in this docket, within 6 months of the Decision, an estimated schedule of when homeowners within each subdivision may expect availability of service from the Company.
4. Midvale be required to file in the docket, as each is obtained, certification of all state highway, county or other permits that may be required for it to provide service within the Extension Area, and to file notice that all required permits have been obtained.






Midvale Telephone Company  
Docket No. T-02532A-07-0586  
Attachment 1

ATTACHMENT 1



-  ACCIPITER COMMUNICATIONS
-  MIDVALE TELEPHONE EXCHANGE
-  MIDVALE TELEPHONE EXCHANGE APPLICATION FOR EASTERN EXTENSION AREA
-  MIDVALE TELEPHONE EXCHANGE APPLICATION FOR WESTERN EXTENSION AREA

-  TABLE TOP TELEPHONE COMPANY
-  QWEST COMMUNICATIONS
-  WILLIAMSON VALLEY EXPANSION AREA



